

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

LORENZO ROGERS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3841

Claim No. CU-5092

Decision No. CU -2014

AMENDED PROPOSED DECISION

These claims, based on the asserted loss of certain real and personal property in Cuba, were denied by the Commission by Proposed Decision issued on June 19, 1968, inasmuch as the evidence of record was insufficient to establish the claims. The record now establishes that claimant acquired nationality of the United States through his parents in 1902.

Claimant has subsequently submitted in support of his claims an affidavit of an individual who states that he has personal knowledge of the facts, and his own affidavits detailing a list of the personalty subject of these claims.

On the basis of the present record the Commission finds that claimant owned a one-half interest in a residence at Caja Haquter #7, Bayamo, Oriente, including its contents and a 1956 Mercury. Pursuant to the community property law of Cuba his wife also owned a one-half interest in these properties acquired during their marriage. Since she is not a national of the United States, so much of these claims as is based on her interest cannot be considered.

Claimant states that the real and personal property were taken by the Government of Cuba on March 18, 1966 upon leaving the country. Based on

the evidence of record the Commission finds that the home was taken on March 18, 1966 pursuant to Law 989 and that the furnishings and other personal property were also taken on that date.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

Claimant states that he purchased the lot measuring 8 meters by 25 meters in 1927 or 1928 and thereafter built a house on it which is described as constructed of brick and wood with tile roof and containing about eight rooms. Claimant has also submitted the aforementioned list of furnishings which includes the approximate dates of acquisition, purchase prices and estimated values when taken.

Based on the evidence of record the Commission finds that the residence including the lot had a value of \$10,000, and that the personalty including the 1956 Mercury after appropriate depreciation had a value of \$2,660; and concludes that claimant suffered a loss in the total amount of \$6,330 as the result of the taking of his one-half interest in the real and personal property on March 18, 1966.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

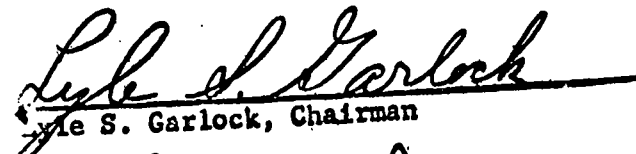
Accordingly, the following certification of loss will be entered and in all other respects the Proposed Decision is affirmed.

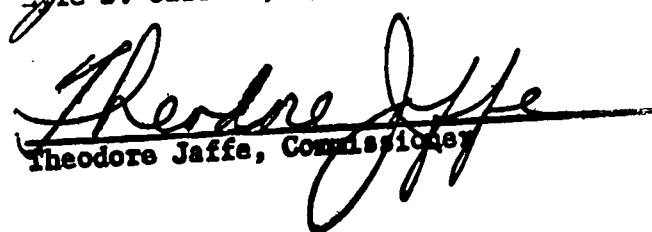
CERTIFICATION OF LOSS

The Commission certifies that LORENZO ROGERS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Thousand Three Hundred Thirty Dollars (\$6,330.00) with interest at 6% per annum from March 18, 1966 to the date of settlement.

Dated at Washington, D.C., and
entered as the Amended Proposed
Decision of the Commission

JUN 30 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)

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2014

PROPOSED DECISION

These claims against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$15,500.00 were presented by LORENZO ROGERS, and are based upon the asserted loss of improved real property and items of personal property which were taken as a result of expropriatory measures of the Government of Cuba. Claim No. CU-3841 was opened in behalf of claimant by the Commission. Subsequently, claimant filed a claim based upon the same subject matter. This claim was assigned Claim No. CU-5092. Since the subject matter is identical, this Proposed Decision will be dispositive of both claims.

Claimant states that he has been a national of the United States since his birth. Claimant has not, however, submitted evidence to establish his United States citizenship.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the ownership and loss of real property and personal property, but has not submitted evidence in support of his claim. Accordingly, by Commission letter of February 16, 1968, suggestions were made to claimant regarding the type of evidence proper for submission in order to establish his claim. Specifically, it was suggested that claimant submit proof of his United States nationality; evidence to establish ownership, loss and value of real property; and evidence to establish ownership, loss and value of items of personal property. Other suggestions were made to claimant in Commission letters of October 9, 1967 and March 14, 1968.

In reply to the Commission's suggestions, by two letters dated March 22, 1968, claimant submitted the following; his own statements regarding his United States nationality; an incomplete request for assistance; and a blank form issued by the United States Department of Justice, Immigration and Naturalization Service.

Thereafter, by Commission letter of April 19, 1968, claimant advised that the evidence previously suggested in the Commission's letter of February 16, 1968, had not been submitted, and it was suggested that such additional evidence be submitted within 30 days from the date of the Commission's letter of April 19, 1968. No additional evidence has been submitted; neither has claimant corresponded further with the Commission.

The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, these claims are hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claims.

Dated at Washington, D.C.,
and entered as the Proposed
Decision of the Commission

JUN 19 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Notice: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CU- 3841
CU- 5092